

EXHIBIT M

1 OF 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOSUE SOTO, GHAZI RASHID,
MOHAMED ABDELFAH, on behalf
of All Aggrieved Individuals,
All Others Similarly Situated,
and the General Public,

Plaintiffs,

vs.

CASE NO. 08-CV-0033-L-AJB

DIAKON LOGISTICS (DELAWARE), INC.,
a foreign corporation; and DOES
through 50, inclusive,

Defendants.

DEPOSITION OF STEVEN ESPINOZA

Taken at San Diego, California

Wednesday, April 28, 2010

Reported by Yesenia Ponce - CSR
Certificate No. 12689

EXHIBIT M
2 OF 5

Samuel Rubio, Jr. - 4/28/2010

1 performance and evaluate the owner operator.

2 Q Have you ever done that?

3 A I did it last year. Once.

4 Q You have only done it one time?

5 A As an assistant manager.

6 Q Does your assistant manager currently have that
7 job?

8 A He can do it. But we haven't done it yet.

9 Q There have been no follow-ons in 2010?

10 A No.

11 Q In 2009 how often did Diakon conduct
12 follow-ons?

13 A I am not too sure.

14 Q Is there a report that is written up?

15 A It is.

16 Q And what happens to that report?

17 A It gets evaluated with the owner operator.

18 Q Is a copy of that report maintained somewhere?

19 A Yes.

20 Q Where?

21 A I am not too sure.

22 Q Do you send it on somewhere?

23 A Well, the previous manager did.

24 Q Where did he send it to?

25 A Corporate office.

Samuel Rubio, Jr. - 4/28/2010

1 Q And when you did the follow-on, how many days
2 did you do the follow-on for?

3 A Just once.

4 Q And how many stops did you observe?

5 A Approximately about five.

6 Q Did you also observe the drivers between
7 delivery stops?

8 A No.

9 Q You didn't observe them driving on the roads?

10 A I did.

11 Q You did?

12 A Yes.

13 Q Were you checking to make sure they follow all
14 road safety?

15 A Correct. All DOT requirements.

16 Q What are the DOT requirements?

17 A Making sure they are the speed limit.

18 Q Did the contractor team that you followed --
19 was it just one team or more than one?

20 A Just one.

21 Q Did the contractor team that you followed
22 comply with all speed requirements?

23 A Yes, sir.

24 Q In addition to checking their speed and road
25 safety, did you evaluate their communication with the

Samuel Rubio, Jr. - 4/28/2010

1 customer?

2 A At the end.

3 Q Okay. Did you also evaluate how well they
4 protect the customer's house?

5 A Correct.

6 Q Did you check to make sure they were in
7 uniform?

8 A Correct.

9 Q Did you check the condition of their truck?

10 A I did.

11 Q Did you check anything else?

12 A Handling of the merchandise.

13 Q Okay. What do you mean by "handling"?

14 A When they are done with all the merchandise and
15 making sure they are handled properly.

16 Q So it doesn't break or get damaged?

17 A Correct.

18 Q Did you check anything else?

19 A No.

20 Q Are drivers in San Diego required to wear
21 uniforms?

22 A They do.

23 Q What uniforms do they have to wear?

24 A Jerome's uniform.

25 Q Describe it for me.